

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

MARKFORGED, INC.,

Plaintiff,

v.

DESKTOP METAL, INC.,

Defendant.

Civil Action No. 1:19-cv-11635-WGY

JOINT STATUS REPORT

Plaintiff Markforged, Inc. (“Markforged”) and Defendant Desktop Metal, Inc. (“Desktop Metal”) respectfully submit this joint status report regarding the pending arbitration in JAMS.

On July 30, 2019, Markforged filed its Complaint in this Court. (ECF 1.) On August 21, 2019, Desktop Metal moved to compel arbitration and dismiss the case. (ECF 13, 15.) On October 8, 2019, the Court heard argument and “enter[ed] an order granting [13] Motion to Compel.” The Court administratively closed the case pending resolution of the case in arbitration and ordered the parties to submit a report to the Court in six months. (ECF 27.)

On October 21, 2019, Markforged served its Demand for Arbitration. On October 28, 2019, Desktop Metal served its Response to Claimant Markforged’s Demand for Arbitration and Arbitrability Challenge, and Desktop Metal’s Counterclaims Against Markforged. On November 4, 2019, Markforged served its Response to Desktop Metal’s Counterclaims, and the parties stipulated to the appointment of Judge William Cowin as Arbitrator for the dispute. Judge Cowin held a preliminary conference on January 21, 2020, and then set the schedule for arbitrability briefing.

On January 28, 2020, Markforged served a Motion for a Determination that this Matter is Not Arbitrable. The parties briefed the motion, and Judge Cowin heard argument on whether the

matter is arbitrable on March 4, 2020. On March 23, 2020, Judge Cowin denied Markforged's motion and ordered that all of Markforged's claims in the Complaint are arbitrable.

On March 25, 2020, the parties submitted to Judge Cowin a joint proposed arbitration schedule, including various discovery deadlines between April and August 2020 leading up to the arbitration hearing, taking into account the disruption from COVID-19. On March 31, 2020, Judge Cowin held a scheduling conference and accepted and authorized the parties' joint proposed schedule and ordered the parties to continue to work together in light of COVID-19. The parties are currently scheduled to hold their arbitration hearing beginning the week of September 21, 2020.

Dated: April 1, 2020

Respectfully submitted,

/s/ Harvey J. Wolkoff

Harvey J. Wolkoff (BBO# 532880)
Alik Sofis (BBO# 675777)
Kait O'Connor (BBO# 687527)
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
111 Huntington Avenue, Suite 520
Boston, MA 02199
Tel: (617) 712-7100
harveywolkoff@quinnemanuel.com
alakisofis@quinnemanuel.com
kaitoconnor@quinnemanuel.com

Attorneys for Plaintiff Markforged, Inc.

/s/ Robert S. Shwartz

Robert S. Shwartz (*pro hac vice*)
ORRICK, HERRINGTON & SUTCLIFFE LLP
405 Howard Street
San Francisco, CA 94105
Tel: (415) 773-5700
rshwartz@orrick.com

Sheryl Koval Garko (BBO #657735)
ORRICK, HERRINGTON & SUTCLIFFE LLP
222 Berkeley Street, Suite 2000
Boston, MA 02116
Tel: (617) 880-1919
sgarko@orrick.com

Angela Colt (*pro hac vice*)
ORRICK, HERRINGTON & SUTCLIFFE LLP
51 West 52nd Street
New York, NY 10019-6142
Tel: (212) 506-5000
acolts@orrick.com

Attorneys for Defendant Desktop Metal, Inc.

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on this 1st day of April 2020.

/s/ Robert S. Shwartz